

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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Paul Holowecki, Patrick Kennedy, Donna M. :
Lewis, Charles Moncalieri, Phyllis Nelson, :
Steven Almendarez, Kelly L. Martinez, Kevin : Case No. 02 CV 3355 (JSR)
McQuillan, Kenneth G. Mutchler, George :
Robertson and Nancy Thompics, Individually :
and on Behalf of All Others Similarly Situated, : **NOTICE OF MOTION TO SEVER**
: **TRIALS**
Plaintiffs, :
- against - :
FEDERAL EXPRESS CORPORATION, :
Defendant. :
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PLEASE TAKE NOTICE that upon its Memorandum of Law and supporting affidavits, and upon all prior pleadings and proceedings heretofore had herein, Defendant Federal Express Corporation ("FedEx") will move this Court, pursuant to Fed. R. Civ. P. 42(b) for an Order severing for trial the claims of the individual plaintiffs based upon the substantial likelihood of confusion for the jury created by the differing factual allegations with respect to each plaintiff, and the resulting prejudice to FedEx.

In accordance with the schedule established by the Court, the moving papers of FedEx shall be served and filed by May 11, 2007, plaintiffs' answering papers shall be served and filed by May 25, 2007, and FedEx's reply papers shall be served and filed by June 1, 2007. Oral argument of the motion will be conducted at the final pretrial conference to be held on June 11, 2007 at 4 p.m.

Dated: New York, New York
May 4, 2007

CLYDE & CO US LLP

By 
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-and-

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Attorneys for Defendant
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To: David L. Rose, Esq.
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1320 19th Street, NW, Suite 601
Washington, DC 20036

Attorneys for Plaintiffs


AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

Melissa Vorozilchak, being duly sworn, deposes and says that deponent is not a party to this action, is over 18 years of age and resides in New York, New York. On May 4, 2007, deponent served the within **NOTICE OF MOTION TO SEVER TRIALS** upon:

David L. Rose, Esq.
Rose & Rose
1320 19th Street, NW, Suite 601
Washington, DC 20036

The address(es) designated by said attorney(s) for that purpose by depositing a true copy thereof enclosed in a post-paid properly addressed wrapper, in an official depository under the exclusive care and custody of the United States Postal Service within the State of New York.


Melissa Vorozilchak

Sworn to before me this
4th day of May, 2007


Notary Public

PATRICIA A. DONNELLY
Notary Public, State of New York
No. 01DO5087441
Qualified in New York County
Commission Expires Nov. 30, 2009